

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LARRY D. DAVIS, SR.,

Plaintiff,

v.

1:16-cv-04246-WSD-CMS

**CAROLYN W. COLVIN, Acting
Commissioner for Social Security
Administration, and KIM BROACH,
Field Office Director for Social
Security Administation,**

Defendants.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Catherine M. Salinas' Report and Recommendation [8] ("R&R"). The R&R recommends the Court deny Plaintiff Larry D. Davis, Sr.'s ("Plaintiff") Emergency Motion for Injunctive Relief [7] ("Emergency Motion").

I. BACKGROUND

On January 3, 2017, Plaintiff filed his Emergency Motion. In it, Plaintiff seeks a hearing in this matter because he was denied a hearing in the underlying administrative proceeding, which, he claims, was a violation of the Social Security Administration's administrative policies and a violation of his due process rights

under the Fifth and Fourteenth Amendments to the United States Constitution. ([7]). Plaintiff states that he has been “unable to prepare a plan for managing his financial affairs for 2017” due to the uncertainty of his Social Security benefits. ([7] at 2).

On January 13, 2017, the Magistrate Judge filed her R&R. In it, she found that Plaintiff’s Emergency Motion “fails to establish good cause to grant an immediate hearing and fails to show that irreparable injury, loss, or damage will result if a hearing is not held within 72 hours, as requested.” (R&R at 2). The Magistrate Judge recommended denial of Plaintiff’s Emergency Motion.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982) (per curiam). A district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). If no party has objected to the report and recommendation, a court conducts only a plain error review of the record. United States v. Slay, 714

F.2d 1093, 1095 (11th Cir. 1983) (per curiam). The parties here do not object to the R&R and the Court thus reviews it for plain error.

B. Analysis

Plaintiff does not provide compelling reasons why the Court must hold an immediate hearing in this action. The Magistrate Judge found that Plaintiff failed to show that “irreparable injury, loss, or damage will result” if a hearing were not held within 72 hours. (R&R at 2). The Court finds no plain error in this finding and recommendation. See Slay, 714 F.2d at 1095. Accordingly, Plaintiff’s Emergency Motion is denied.

III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Catherine M. Salinas’ Report and Recommendation [8] is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff’s Emergency Motion for Injunctive Relief [7] is **DENIED**.

SO ORDERED this 2nd day of February, 2017.


WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE